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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/782,304

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EXAMINER

BUTLER, MICHAEL E

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/782,304	<b>Applicant(s)</b> TEZUKA, KENICHI	
	<b>Examiner</b> Michael Butler	<b>Art Unit</b> 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action, and apply to this and any subsequent Office Actions.

#### ***Priority***

1. Applicant's claim of priority to application 2003-042470 filed 2/20/2003 in Japan. The priority document has been received.

#### ***Drawings***

2. The drawings are acceptable.

#### ***Election/Restriction***

3. Newly submitted claims 24-28 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

I. Claims 1-10 drawn to an apparatus for the fuel dispensing system with remote control of distributed dispensing units conjoined with a remote security monitoring system, classified in class 700, subclasses 244.

II. Claim 11 drawn to a method for conveying a plurality of receiving containers by positioning a successive stream of conveyed containers to a receiving station, classified in class 700, subclass 230.

4. Invention I and II are related as apparatus and processes for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus I may be used with a process for sensing if receiving container overflow is occurring

or to verify whether a dispense has occurred. In this case, process II may be used by a device for automatically releasing and conveying cups to a beverage dispenser or may be used with device having container conveyor a or may be used with an automatic coin rolling machine.

5. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Or, because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Or, because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

6. No claims appear to be linking claims.

7. Since applicant has received an action on the merits for the originally presented invention, invention I has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 11 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 10 is rejected under 35 U. S. C. 112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The applicant has used the following terms with a lack of antecedent basis in the claims: the container storage unit.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim(s) 1-10 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Takemoto et al. '110 (5366110) in view of Takemoto et al. '362 (5429362) wherein Takemoto et al. '110 discloses:

(Re: cl 1,4, 7) A token dispensing apparatus comprising: a token dispensing unit including a storage member for storing tokens (c3 L 47-58);  
a token selector unit for releasing a token from the storage member based on a user request (c4 L 5-19);  
a second sensor unit for sensing a container at the position to receive a released token (c4 L 5-19);  
a control unit for receiving an output from the first sensor unit and comparing it with a predetermined value representative of a desired capacity of the container to hold tokens and receiving an output from the second sensor unit to determine the existence of a container at the position to receive a released token to enable the token selector unit to release tokens, the control unit stops the dispensing of the tokens when a predetermined

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value representative of the desired capacity is reached and compares the predetermined value with the total number of tokens requested, when the total number tokens are greater than the predetermined value and the second sensor unit indicates the initial container is removed from the position to received released tokens, (c4 L 5-19); and the second sensor unit senses the second container, the control unit activates the token selector unit to continue to release tokens under the monitoring of the control unit (c4 L 5-19)

(Re: cl 2, 7) further including operator control unit for inputting an amount of tokens to be dispensed and a displaying unit for displaying the status of tokens in the container dispensed (c 3 L 1-12)

(Re: cl 3, 8)(2) further including a coin receiving unit and a banknote receiving unit for inputting monetary value in return for the amount of tokens to be dispensed (c 3 L 1-12)

(Re: cl 4, 7) A token dispensing device comprising:

an amount detecting unit which detects the amount of stored tokens in the container; an overflow preventing unit which outputs a removing signal for removing the container which is located at the dispensing section and a stopping signal for the dispensing unit, when the amount detecting unit detects a predetermined amount of tokens in the container (c4 L 20-46);

a container detecting unit which detects the container located at the dispensing section (c4 L 5-19) ;

and a remaining amount dispensing unit which enables the token dispensing unit and the container dispensing unit based on a no-container signal from the container detecting unit (c4 L 5-19)

(Re: cl 5) further includes a displaying unit for providing indicia (14 fig 2), indicating removal of the container based on the removing signal (c4 L 5-19)

(Re: cl 6) where the amount detecting unit is a counter which counts tokens dispensed from the token dispensing unit (c4 L 20-46)

(Re: cl 9) including a means for monitoring a predetermined time period in which a container is at the dispensing section after a removing container signal is displayed and displays an error signal when the predetermined time period is exceeded (c6 L 57-63 ;c5 L 37-45 ; c4 L 46-c5 L 6, sensing for a non-smooth supply flow to alert the attendant).

Takemoto et al. '362 discloses any elements not inherently taught by Takemoto et al '110

including:

a container detecting unit which detects the container located at the dispensing section ( C L 12-25) ;

container dispensing unit which dispenses a container for receiving tokens to a dispensing section based on a dispensing signal a token dispensing unit which dispenses the tokens to the container located at the dispensing section, a container dispensing unit for dispensing a container to receive the tokens including a container storage unit and a container separating unit for releasing a container from the storage member to a position to receive a released token; a first sensor unit for sensing the number of tokens released,

the control unit automatically activates the container separating unit to release a second container (c2 L 28-40)

(Re: cl 10) wherein the container dispensing unit has the container storage unit for supporting a stack of containers positioned above the dispensing section, the containers are released to drop downward by gravity onto the dispensing section ( 5 fig 1,2).

It would have been obvious at the time of the invention for one of ordinary skill in the art to add the teachings of Takemoto et al. '362 to Takemoto et al. '110 to give new customers their own token dispenser which they may lack prior to electing to dispense and come up with the instant invention. It would have been obvious at the time of the invention for one of ordinary skill in the art to add the teachings of Takemoto et al. '362 to Takemoto et al. '110 to detect whether the coin receiving container is present to avoid spilling tokens and come up with the instant invention. It would have been obvious at the time of the invention for one of ordinary skill in the art to add the teachings of Takemoto et al. '362 to Takemoto et al. '110 to include a gravity fed container dispenser as a means of having containers available as taught by Takemoto et al. '362 and come up with the instant invention.

#### ***Response to Amendments/Arguments***

8. The applicant's arguments have been fully considered but they are unpersuasive in overcoming the rejections. Contrary to applicant's position, Takemoto et al. '110 expressly refers to the sensor as a counting sensor.

As indicated, the container sensor is disclosed in the secondary reference Takamoto et al. '110.

Given the minimal modification necessary, such an elementary modification would be well within the skill of an electrical engineer in the art with the teachings of the disclosure of Takamoto et al. '110 and Takamoto et al. '362 and include a container dispenser to preclude

dumping coins into a container-less void. As applicant has pointed out the magnitude of modification is inversely correlative of the obviousness threshold for one of ordinary skill in the field, in light of the minimal teachings drawn upon from Takamaoto et al. 362, applicant's statement places an exclamation mark on just how obvious the combination of Takamoto et al. '110 and Takamoto et al. '362 would be to an electrical engineer of ordinary skill in the dispensing art.

As there is no structure in applicant's apparatus directed at switching amongst plural containers, the plural container argument on the unclaimed element is a red herring.

MPEP 2114 proscribes that the manner of operating the device does not differentiate apparatus claims from the prior art. See MPEP 2114 regarding a condition precedent that may actually occur.

### ***Conclusion***

8. Accordingly, **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (571) 272-6937.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey, can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*MEB*  
*5/10/07*



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